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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/772,316

02/06/2004

Leo Sartor

14610

6480

293

7590

06/09/2006

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EXAMINER

GRAHAM, MARK S

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/772,316

Applicant(s)

SARTOR ET AL.

Examiner

Mark S. Graham

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 5/8/06.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 13-17 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 13-17, and 30-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 10, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Lallemand. Note Lallemand's foam core and mesh fiber layers 1, 2, and 3 which are then impregnated and covered with a thermoplastic resin. The outermost layer of material may be considered the thermoplastic sheet material. Regarding claim 30 the outermost portion of the thermoplastic material which covers the fiber layer 3 may be considered the sheet of thermoplastic material devoid of fibers.

In response to applicant's argument over the above rejection it matters not that thermoplastic/mesh sheet 3 is of the same nature of the sheets 1 and 2. All that the claim requires is that a thermoplastic sheet cover the second layer of fibers, (in Lallemand's case this would be layer 2), and that it increase the impact resistance of the blade which is an inherent result of having sheet 3 over layer 2.

Regarding applicant's footnote, impregnating such sheets in the manner disclosed by Lallemand is a method of soaking them in the resin, which results in coverage of the fibers.

Applicant's additional comments have been noted but do not change the fact that Lallemand discloses a thermoplastic sheet 3, which covers a second layer of fibers 2, as claimed. The method by which one arrives at this construct is not at issue in the pending article claims.

Claims 1, 6-9, and 13-16 are rejected under 35 U.S.C. 102(e) as being anticipated by McGrath. Note McGrath's Fig. 14 embodiment and the discussion of the various materials that may be used therein discussed on pages 15-37. McGrath discloses multiple layers which may be woven and may contain the fiber angles claimed. Thermoplastic material may be used as the resin and the outermost layer may be considered the thermoplastic sheet material.

In response to applicant's arguments, which largely mirror those advanced with regard to the Lallemand rejection, the examiner simply notes that an outer layer of fiber impregnated with thermoplastic material comprises a thermoplastic sheet. The applicant has provided no basis or evidence for his assertion that such a layer may not be considered a thermoplastic sheet.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-9, 13, 14, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lallemand. Lallemand discloses the claimed device with the exception of the particularly claimed foam and thermoplastic. However, the examiner took official notice that the foams and thermoplastics claimed by applicant are commonly known and such is now admitted prior art. It would have been obvious to one of ordinary skill in the art to have chosen which ever of these was desired to obtain a particular strength, weight, or flexibility characteristic in the blade. Regarding claim

32, the outermost portion of the thermoplastic material which covers the fiber layer 3 may be considered the sheet of thermoplastic material devoid of fibers.

Applicant's arguments with regard to claims 31 and 32 are not considered persuasive for the same reasons explained with regard to applicant's above arguments.

Claims 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lallemand in view of Tiitola '269. Lallemand discloses the claimed device with the arguable exception of the fiberless sheet materials. However, as disclosed by Tiitola '269 it is known in the art to use wood, plastic, or fiber sheets as the outermost sheet material on hockey blades. It would have been obvious to one of ordinary skill in the art to have used such on McGrath's blade as well for the reasons espoused by Tiitola '269.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over McGrath in view of Battis for the reasons set forth in the previous office actions application of Battis regarding the indicia.

Applicant's arguments filed 5/8/06 have been fully considered but they are not persuasive.

Applicant's request for constructive assistance is noted. However, because applicant's device differs only in the manner made and not the resulting structure no patentable subject matter with regard to the article claims is apparent.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

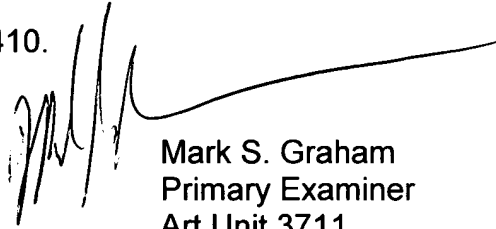
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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Mark S.

Graham at telephone number 571-272-4410.

MSG  
6/6/06



Mark S. Graham  
Primary Examiner  
Art Unit 3711